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THE SITUATION IN CENTRAL AMERICA:
PROCEDURES FOR THE ESTABLISHMENT
OF A FIRM AND LASTING PEACE AND
PROGRESS IN FASHIONING A REGION
OF PEACE, FREEDOM, DEMOCRACY AND
DEVELOPMENT

SECURITY COUNCIL
Forty-eighth year

Note by the Secretary-General

The attached document contains the report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador (ONUSAL) up to 31 July 1993. As will be recalled (see S/23999, para. 3), it was decided that the work of ONUSAL in relation to the San José Agreement on Human Rights (A/44/971-S/21541, annex) would be the subject of a separate series of reports.

ANNEX

Report of the Director of the Human Rights Division of the United Nations Observer Mission in El Salvador up to 31 July 1993

I. INTRODUCTION

1. This report contains an evaluation of the human rights situation in El Salvador during the period from 1 May to 31 July 1993. The text follows the basic structure of previous reports, although it has been deemed appropriate to group the summary accounts of some representative cases of existing violations in a supplementary document.

2. Furthermore, in order to ensure that the work of active verification receives the necessary public dissemination, which in itself is a means of promotion and protection, beginning with this report it has been deemed appropriate to include an account of all complaints declared admissible by the Human Rights Division during the period under consideration.

3. The report contains, in addition, the results of a study examining the degree of effectiveness or ineffectiveness of the application of the remedy of amparo in judicial practice, the goal, as always, being to contribute to the judicial reform process and to help improve the administration of justice.

4. As stated in the previous report, the section on ONUSAL recommendations contains a detailed analysis of the compliance or non-compliance with those recommendations.

5. The methodology used in the reports takes as a point of reference the changes in the human rights situation over the three months analysed in each report. Thus, the reports do not necessarily reflect trends, but rather, situations at different points in time. Analysis of trends will be included in the ninth report on the basis of cumulative data over nine months.

II. OVERALL ASSESSMENT OF THE SITUATION

6. The human rights situation in El Salvador continues to evolve in an ambivalent manner. On the one hand, signs of improvement are continuing while, on the other, grave violations, especially in relation to the right to life, persist and are even growing worse. The fact that there have been no reports of enforced disappearances over a total period of 13 months illustrates the former; the existence of politically motivated arbitrary executions and torture, the latter.

7. In the context of the implementation of the peace agreements, this reality calls for greater responsibility on the part of the State in fulfilling its obligation to provide guarantees, especially with regard to ensuring that the perpetrators of violations do not go unpunished. The fact that a large part of the complaints verified by ONUSAL, the Office of the National Counsel for the Defence of Human Rights and non-governmental organizations continue to go

unpunished, notwithstanding the institutional reforms undertaken, is due to the limited ability of the competent bodies to investigate offences and punish offenders. This situation brings with it negative consequences that can result in an increase in violations and can jeopardize existing improvements.

8. At the same time the violence continues, and no overall solution has been found for dealing with the real causes of the problem. There is a pressing need to disarm civilians who are in possession of military weapons, and this calls for the immediate approval of appropriate legislation so that the necessary administrative measures may be taken for the recovery of these weapons.

9. With regard to the situation of trade union rights and freedom of association, there are growing problems that require fundamental solutions both within the Forum for Economic and Social Consultation and with respect to the labour conflicts which have just arisen. Dialogue and negotiation are indispensable tools of a labour policy compatible with the peace agreements and existing international norms. The State, the business community and workers must continue on this path in search of negotiated agreements.

III. ANALYSIS OF ACTIVE VERIFICATION OF THE HUMAN RIGHTS SITUATION

A. Right to life

10. Complaints declared admissible in the three months covered by this report indicate an increase in violations of the right to life, against the backdrop of a situation where such violations appear to be the most serious. In the month of July alone, in the central region of the country, 14 complaints concerning death threats were received, 7 concerning arbitrary executions, 4 concerning attempted arbitrary executions and 1 concerning abduction. Overall figures for the three months under consideration indicated that 92 complaints of violations of the right to life were received, of which 52 involved arbitrary executions or attempted arbitrary execution.

11. Quantitative indicators reveal only part of the problem. A large percentage of the reported violations of the right to life have yet to be properly investigated, impeding the identification of the perpetrators. As a consequence of both these facts, a high proportion of violations remain unpunished.

12. In this respect, the Human Rights Division must reiterate the comments offered in its sixth report that there is a persistent "absence of any policy governing the preservation of evidence relating to deaths or the taking of minimum care to preserve such evidence; the absence of any measures to ensure the safety of witnesses, and the improper handling of testimony; the failure to use the proper technical means to establish the cause, manner and time of death; the failure to perform autopsies in a significant number of cases, notwithstanding the commendable efforts of the Institute of Forensic Medicine; and the inefficiency of the judicial system and its auxiliary organs in identifying those responsible for deaths. This inability to investigate crimes is reflected in the failure of judges to show any initiative in taking the requisite legal steps in the early stages of the investigation; in the slow and delayed participation of the Office of the Attorney-General; in the meagre or

invalid evidence gathered for the purpose of establishing criminal liability; and in lenience in investigating cases involving military personnel or agents of the security forces, the direct result of which is impunity" (see A/47/912, p. 19).

1. Deaths resulting from the violation of juridical guarantees and arbitrary or extralegal executions

13. Cases of complaints of deaths resulting from the violation of juridical guarantees and arbitrary or extralegal executions increased by 30 per cent over the period February-April. It is significant that in the months of June and July alone, 32 complaints were received. These figures confirm the warnings by the Human Rights Division that the level of complaints of violations of the right to life was a cause for great concern.

14. Complaints of arbitrary executions increased from 7.45 per cent of the total in the February-April quarter to 10.1 per cent in this quarter. As for who is responsible for violations of the right to life, the percentage of violations attributed to persons unknown increased to 34.7 per cent and that attributed to irregular groups increased to 25 per cent. It is alarming to find that 59.7 per cent of the violations of the right to life are attributed to those two groups, indicating increasing activity by clandestine groups whose methods are similar to those of death squads.

15. Deaths of unidentified persons have continued to occur, and some of them show evidence of violence that goes beyond the intent to kill (Case No. SORU/382/93, Case No. ORSM/908/93 and Case No. ORSM/909/93). Similar methods of killing were used in the cases of Carlos Aurelio Pérez Durán and Sául Ramón Marroquín Lovo (Case No. ORSS/2365/93) and Marina de la Paz Stanley Argueta (Case No. ORSS/2385/93).

16. Although it is certain that the verification of the cases mentioned in the preceding paragraph points to ordinary motives, the participation of former members of irregular groups which operated in the country during the 1980s cannot be definitively ruled out. That could explain the apparent similarity between the modus operandi used in the aforementioned murders and that characteristic of the death squads of the time.

17. Active verification, on the other hand, has led to the corroboration of the allegations of arbitrary execution in the cases of Santos Martínez Pérez, Hector Manuel Contreras, José Buenaventura Vásquez, Angel Mendoza Villatoro and Hector David Segovia Verillas.

18. The case of Santos Martínez Pérez had national political repercussions, since he was killed by shots fired by members of the National Police riot squad during a demonstration of war-disabled persons on 20 May 1993. After investigating the matter, the Fourth Criminal Court of San Salvador ordered the provisional detention of officer Alberto Ponce Zuñiga as the individual responsible for the crime of intentional homicide. The Office of the Director of the National Police has not handed the officer over to the court, notwithstanding the detention order.

19. The other two cases where the work of active verification was focused concerned the murders of Monsignor Pedro Joaquín Ramos Umaña and Juan Francisco Grande which were linked to the logistical team of the Fuerzas Populares de Liberacion, an integral part of the FMLN party.

20. In the case of Monsignor Ramos Umaña, the President of the Republic ordered a swift investigation to discover the facts. At the same time, the Archbishop of San Salvador decided to set up an investigative commission. ONUSAL carried out the appropriate verification, and arrived at specific conclusions; these will be made public once the investigative commission set up by the Archbishopric completes its work, in order to avoid interfering with this investigation.

21. The murder of Juan Francisco García Grande was the subject of a prompt investigation by the National Police, in principle coinciding with the active verification conducted by ONUSAL. A preliminary hypothesis has been established regarding the motive for the crime (personal dispute) and the alleged perpetrator has been identified. However, in order to be able to state that this homicide had no political motivation, the investigation still under way must be completed, since the available evidence does not a priori rule out other possibilities, which are under investigation.

22. During the period under consideration, officers of the armed forces were also killed (Captain Juan Hernández Mejía, Lieutenant Armando Castillo Mejía, Lieutenant Antonio García Santillana), as well as members of the National Police (José Inés González and Mario Alfonso Mejía). The self-styled Frente Revolucionario Salvadoreño initially claimed responsibility for the killings. Subsequently, it was established that they were ordinary homicides.

ARBITRARY EXECUTIONS AND IMPUNITY							
VICTIM/CATEGORY	AEV	SI	SA	LPI	JII	GPP	SDO
GARCIA, P.	YES	YES	NO	YES	YES	NO	NO
PANAMEÑO, G.	YES	YES	NO	YES	YES	NO	NO
PALOMO, V.	YES	YES	NO	YES	NO	NO	NO
MARTINEZ, P.	YES	YES	NO	YES	NO	NO	NO
CONTRERAS, H.	YES	NO	NO	YES	YES	NO	NO
BUENAVENTURA	YES	NO	NO	YES	YES	NO	NO
SEGOVIA, V.	YES	YES	NO	YES	NO	NO	NO
MENDOZA, A.	YES	YES	NO	YES	YES	NO	NO

AEV ARBITRARY EXECUTION VERIFIED
SI SUSPECTS IDENTIFIED
SA SUSPECTS APPREHENDED
LPI LEGAL PROCEEDINGS INSTITUTED
JII JUDICIAL INVESTIGATION INADEQUATE .
GPP GUILTY PARTY PUNISHED
SDO STATE'S DUTY TO PROVIDE GUARANTEES FULFILLED

2. Attempted arbitrary or extralegal executions

23. According to the statistics, nine complaints of attempted arbitrary execution have been declared admissible. One of the complaints verified, that of Gregorio Mejía Espinoza, Secretary of a local organization, the Movimiento Popular Social Christiano, is particularly serious. The verification revealed it to be a politically motivated case of attempted arbitrary execution. The victim was abducted and tortured, although the attempt itself was unsuccessful.

24. Such occurrences are incompatible with the rule of law and the democratic legal order. Practices of this kind must be totally outlawed and punished in accordance with the law. The State must comply with its duty to provide guarantees so as to ensure that this case does not go unpunished, an outcome which would seriously undermine efforts to maintain the democratic legal order.

3. Death threats

25. Death threats continue to occur in significant numbers. During the period under review, 40 complaints were declared admissible, many of them relating to politically motivated threats designed to intimidate persons because of their ideas or party affiliation. This was true of the case of Leonardo Hidalgo, which is documented in annex I. The so-called Frente Revolucionario Salvadoreño has repeatedly made death threats against senior officials of the armed forces.

B. Right to integrity of person

1. Torture

26. The Human Rights Division is concerned at the fact that two cases of torture have been verified, one of them particularly serious (Gregorio Mejía Alarcón) and involving political motivation.

27. In its sixth report, the Human Rights Division noted the encouraging fact that no cases of torture had been verified during the period under review (June 1992-January 1993). In the seventh report, that situation remained fundamentally unchanged, although one case of police torture was recorded. However, the verification undertaken in connection with the torture inflicted on Gregorio Mejía Alarcón has compelled the Human Rights Division to ask the Government to conduct a thorough investigation to ensure that those responsible are punished, since politically motivated torture cannot go unpunished without undermining the State apparatus.

2. Ill-treatment

28. Complaints of ill-treatment have fallen by about one third by comparison with the previous period (42 complaints compared to 61 declared admissible for the period February to April). This could be due to the efforts being undertaken in cooperation with the judicial system, the National Police and the National Civil Police to safeguard the rights of detainees. In any case, time will tell whether this is a trend or merely a short-term situation.

C. Right to security of person

1. Enforced or involuntary disappearances

29. Once again, as in the two previous periods, no enforced disappearances were recorded. This means that in an overall period of 13 months no disappearances have been verified, representing what appears to be a steady trend towards a marked improvement in the protection of the right to security of person.

2. Abductions

30. Abductions have remained at broadly the same level as the previous period (five). ONUSAL is concerned that abductions are continuing to occur and that it continues to be impossible to punish those responsible. Abduction as a violent common crime is also continuing to increase.

D. Right to liberty: arbitrary detentions

31. The statistics reveal an unusual increase in complaints regarding arbitrary detentions, which have nearly doubled by comparison with the previous period (74 complaints). This situation is disturbing, bearing in mind that the methodology used by the Human Rights Division distinguishes between arbitrary

detention as such and arbitrary detention for petty misdemeanours, a category whose specific characteristics make it less serious. This increase could be a result of illegal excesses committed in an effort to combat crime.

32. In addition, the problems connected with petty misdemeanours continue to be the target of joint measures taken by ONUSAL and the competent authorities in an effort to reduce their incidence. Various difficulties have been encountered in applying the police instructions which are designed to introduce specific rules to reduce the incidence of arbitrary detention for misdemeanours. Measures are being agreed to overcome these practical problems. As is pointed out in the section dealing with the evaluation of the recommendations by ONUSAL, this situation can only be fully resolved when the urgently needed repeal of the Police Act of 1886 is introduced and misdemeanours are removed from police jurisdiction. ONUSAL repeats that the adoption of these legislative measures is of the utmost urgency.

E. Right to freedom of association and effective enjoyment of trade union rights

33. Complaints concerning freedom of association have remained stable. Complaints are also beginning to be made about the violation of trade union rights (four during the period under review); given the current situation in the country, this calls for immediate and effective action by the authorities. Looking beyond the statistics, a gradual increase can be seen in the number of unresolved conflicts involving trade unions. No overall solutions suggesting a change of policy on the part of the authorities have yet been found to the problems posed by the recognition of the legal personality of trade unions and associations and the selective dismissal of trade union leaders. In this connection, the cases of the Sindicato de Industrias Mecánicas y Metálicas and the Sindicato de Trabajadores de Empresas de Productos Agroindustriales are representative.

34. With regard to international agreements relating to the exercise of trade union rights, the Division has been informed that the Committee on Freedom of Association of the International Labour Organisation (ILO) will finally be received by Government authorities, thereby removing an obstacle to El Salvador's relations with ILO.

35. In general, trade union problems continue to be related mainly to the consideration of ILO conventions, the recognition of the legal personality of trade unions and associations, the settlement of labour conflicts and the definition of a new consensual legal framework; the latter should include agreements regarding the Act organizing the Ministry of Labour, the new Labour Code and the laws and regulations on social security.

36. The Forum for Economic and Social Consultation, which is responsible for reconciling the interests of the State, private industry and trade unions, has encountered difficulties in addressing these topics but has always sought constructive solutions. There has been gradual progress towards ending the critical deadlock affecting the Forum's consideration of the ratification of ILO conventions and it is to be hoped that the parties will succeed in determining criteria that will make it possible to reconcile the different points of view.

37. The Human Rights Division encourages all sectors taking part in the Forum to find mutually satisfactory solutions in line with the obligations deriving from the peace agreements.

F. Right to due process of law

38. The number of complaints received in the months of May, June and July confirmed that most of the complaints received fall into the category of violation of the right to due process of law. In the period under review, 102 complaints were declared admissible, a figure which nevertheless represents a slight decrease compared to the previous period. The right most frequently violated is the legal duty of the State to investigate and punish offences.

39. The high number of complaints concerning due process of law seems to derive from two main factors, namely the persistence - notwithstanding the important progress made in the field of judicial reform - of general shortcomings in the administration of justice and a greater awareness among the population of its rights, as reflected in the growing confidence to proceed with complaints.

40. Bearing in mind that the proposals for judicial reform promoted by the Ministry of Justice as a follow-up to the constitutional reforms adopted in 1991 are intended to contribute to the gradual establishment of a normative framework protective of human rights, emphasis should be placed on the adoption of the rules still pending and their practical application, which leads to the examination and assessment of judicial practice as such.

41. In the view of ONUSAL, priority must be given to making the administration of justice a reality in order to ensure that the important legal reforms have genuine substance. Past experience in Latin America has shown that it is not enough to have modern laws guaranteeing human rights, because there is a kind of inertia which, due to certain legal practices, causes such laws, to a lesser or greater extent, to remain without effect except on paper. In other words, laws which should regulate conduct fail to do so in practice, because they are applied not at all, partially, or in a distorted manner.

42. To illustrate this point, the Human Rights Division has undertaken a preliminary assessment of the problems affecting the application of existing rules which stipulate that anyone who is accused shall have the right to legal counsel and which provide for sanctions where this right has not been respected.

43. The amendments to the Penal Code and the Code of Criminal Procedure, as well as to the Act organizing the Public Prosecutor's Office and the Legal Aid and Public Defenders Act adequately regulate the protection of the rights of the accused from the time of administrative detention, particularly his right to legal counsel as soon as extrajudicial proceedings have been instituted. The reforms have institutionalized the Public Defender, assigning to the Office of the National State Counsel responsibility for providing legal aid and legal counsel for those of limited means.

44. However, the verification undertaken by ONUSAL has confirmed that, in practice, in many cases the accused still spends hours and days in police detention without the assistance of a lawyer. On many occasions, judges fail to

apply the rules in force; these rules are seldom applied as a matter of course. Although the law stipulates that where the accused has not been assigned a defence lawyer, proceedings shall be declared invalid - which would appear to leave little scope for interpretation - it seems that, with a few exceptions, magistrates tend not to do so.

45. The following case is representative. In Chalatenango an application for the remedy of habeas corpus was filed on 7 May 1993 in respect of Jorge Osvaldo Salguera Villeda, who was awaiting trial in the Court of First Instance of Tejutla, on charges of aggravated larceny. Among the documents in the file was a complaint by the defence counsel that the accused had been detained for 33 hours before being assigned a defence lawyer. The application was rejected by both the executing officer and the magistrates, in open violation of the law. One of the magistrates stated that, in his opinion, the fact that a defence counsel has not been appointed right from the start of the proceedings did not necessarily mean that the entire proceedings should be declared invalid.

46. There is sufficient evidence that the requirement established by the Code of Criminal Procedure that trials should be declared invalid if a defence lawyer has not been appointed is generally not being applied. However, this situation could reflect a reluctance on the part of judges to apply the rule in circumstances where the police have acted improperly, prompted by a belief that it could allow many criminals to go unpunished. This is a genuine risk, but its origins lie in the failure of the police to respect the rights of the accused rather than in the provision itself.

G. Right to freedom of expression

47. As was pointed out in the previous reports of the Human Rights Division, freedom of expression in El Salvador is a right generally guaranteed by the State. In view of the current electoral situation in the country, the right to freedom of expression has a crucial role to play in ensuring that political rights can be properly exercised. In this connection, freedom of expression must, in the interests of consistency, imply the need to adequately protect the right of reply and that of correction, particularly where respect of the rights or reputations of citizens is concerned, as laid down in article 19 of the International Covenant on Civil and Political Rights.

48. The commitment undertaken in the peace agreements to achieve the goal of unity and national reconciliation, carries with it a duty not to use the media to encourage behaviour or values that run counter to the spirit of national reconciliation. This requirement, which is crucial if the electoral process is to proceed in a harmonious climate reflecting the principles which have guided the peace process, is also set forth as an international obligation in article 20 of the International Covenant on Civil and Political Rights.

49. The Human Rights Division offers these comments in noting, as pointed out in its earlier reports, that clandestine organizations go so far as to make threats through the media, using paid inserts.

H. Political rights and right to identity documents

1. Political rights

50. Political rights continue to enjoy comprehensive protection and guarantees. A report has been received which has been corroborated on the restriction of political rights (Case No. ORCH/696/93). The report states that María Juana Menjívar and Blanca Solís, members of the FMLN political party, were intimidated during a public political act by three unidentified persons, who demanded that they surrender their identity cards, which both were compelled to do. This report illustrates a characteristic noted in DM-1, namely that military personnel in that detachment assume that one of the roles of the armed forces is to investigate the civilian population so as to identify individuals suspected of belonging to FMLN. This situation must be corrected immediately, so that no military body has perceptions that are incompatible with the new function of the armed forces and that violate political rights.

51. The Human Rights Division wishes to draw attention to this fact, the possible recurrence of which could have a major impact on the free exercise of political rights. Still more grave is the corroboration of politically motivated arbitrary executions or attempted executions which, in addition to representing a serious violation of the right to life, also constitute a direct and brutal violation of political rights, with regard to which the State cannot escape liability. In the electoral context that the country is now entering, the State has an unavoidable obligation to investigate and punish those responsible in such cases.

2. Right to identity documents

52. The ONUSAL Human Rights Division has traditionally focused on the right to identity documents, since the effective exercise of that right is a fundamental prerequisite for the exercise of other basic rights, particularly political and civil rights.

53. On this premise, the Human Rights Division, in collaboration with various agencies - ISDEM, PRODOC, UNHCR, UNDP, AID, the Supreme Electoral Tribunal (TSE) and mayors' offices, among others - has continued to support efforts to guarantee access by the Salvadorian people to identity documents.

54. During the period covered by this report substantial progress was made in issuing identity documents to the people. A large number of identity document campaigns were conducted, coverage being extended to areas where there was a particularly serious problem.

55. Similarly coordination among the various authorities participating in the document-issuing process was improved, although further progress is needed. This has allowed resources to be optimized and results improved to some extent. So-called Identity Document Support Committees have been set up in various departments, with positive results.

56. Nevertheless the identity document campaigns have not had the expected impact nor met the actual needs. While this can be attributed to various

factors, including a lack of resources, it is clear that, a scant few months before the holding of elections, a high percentage of the population is still without basic identity documents and, thus, without the voting card needed to vote. This situation is critical in the former conflict zones.

57. The Human Rights Division views this situation with concern and will increase its efforts to contribute to an effective solution.

I. The situation of violence and the enjoyment of human rights

58. Common violence continues to create a feeling of extreme insecurity among the population. Beginning in February, the Government started to implement an emergency plan, but the results have not been as anticipated. Execution of the plan has not led to any substantial improvement in the current situation. On 16 July the Government deployed, for an indefinite period, 3,000 armed forces troops in an anti-crime operation in support of operations by the National Police and the National Civil Police.

59. They were deployed at 20 critical crime points, in particular highways. According to statements by the President of the Republic, Alfredo Cristiani, this step, in the Government's view, does not imply involvement by the armed forces in public security duties since the deployment is part of the routine training of armed forces personnel, who have no authority to make arrests or use their weapons other than in self-defence or in flagrante delicto arrests.

60. Non-governmental human rights organizations have expressed their opposition to this measure, warning of the creation of conditions conducive to the militarization of society. In this connection the Personal Representative of the Secretary-General and Chief of the ONUSAL mission sent a letter to the Minister for the Presidency.

61. Although it is too early to analyse the results of the decision, first indications suggest that in itself it will not have a major impact on crime control, since, in essence, this requires the technical capacity to investigate and prosecute offences and the concomitantly speedy application of the penalties provided for under the law.

62. In any event ONUSAL reiterates the views expressed in its earlier reports that crime control, which is both necessary and essential, must strictly respect constitutional norms and the peace agreements, and must preserve the constitutional role of the armed forces, which are ordinarily excluded from public security functions.

63. There is widespread possession of military weapons by individuals. There are periodic reports in the press of the discovery of hidden weapons and of smuggling in weapons and ammunition, as well as of the discovery of home-made weapons and of explosives abandoned in public areas. Such events make all the more pressing the need for adequate legislation governing the possession of weapons in general and, in particular, the ad hoc procedures that must be adopted for the effective collection of military weapons held by the civilian population.

64. ONUSAL has reiterated in its various reports that this is the main factor in the violence, and reaffirms its belief that without the development of an effective, systematic plan to disarm the civilian population, violence will continue at a serious level, causing victims and engendering legitimate security concerns among the population. Further, the widespread possession of military weapons provides the material base for the emergence of organized crime structures, including death squads.

65. There have been some instances of selective non-political violence by members of communities affected by crime. ONUSAL has verified deaths involving the execution of criminals by citizens. Such was the case of Tulio Andrés Ramos Mercado, a former member of the Sixth Infantry Brigade, who after being accused of being an assailant, was captured by some 50 people and subsequently executed on 15 July in Usulután (Case No. SORU 421/93).

66. It is reasonable to suppose that the qualitative change in violence reflects factors carried over from the armed conflict which the country experienced; however, if military weapons were not so readily available, it could not have reached its current serious level. Accordingly a comprehensive solution will involve not only disarming the civilian population, but also strengthening the institutions responsible for criminal investigation and the administration of justice, improving the living standards of the population affected by the conflict and providing suitable treatment for those who made warfare a way of life. The violence in evidence today forms part of the transition towards the rule of law, which must be consolidated. It is essential to tackle quickly the real causes of violence before it irreparably undermines the credibility of the institutions with constitutional responsibility for the suppression and punishment of crime.

67. Further, ONUSAL considers it important to develop means of building bridges between local communities and the institutions responsible for the investigation and punishment of crime. An initial approach along these lines is being tried in Usulután, where members of the communities affected by crime have met with the National Police and the Office of the Attorney-General. These meetings have demonstrated the willingness of the people to cooperate with the various government authorities in uniting against crime within the framework of the law. Local communities are interested in cooperating with the police and judges, reporting crimes and supplying evidence to assist in solving them. This approach is also intended to foster a sense of civic responsibility in prosecuting crime.

68. One situation which has been verified by ONUSAL, and which is extremely disquieting, is the fact that acts of organized violence are in many cases carried out by former members of the armed forces and the National Police. At the same time, during the period covered by this report, it was confirmed that former FMLN members have also joined organized gangs of criminals.

69. Various armed groups, some in combat uniform carrying military weapons, roam through various areas of the country, specifically, in Jiquilisco and Berlín, department of Usulután; San Ignacio, municipality of La Palma, Agua Caliente and Concepción, department of Chalatenango; the slopes of Chinchontepec volcano, department of San Vicente; the Cerro de Guazapa, department of San Salvador; in San Miguel, Morazán and in the rural zone contiguous to

San Salvador. There are indications to suggest that these groups, regardless of their nature, largely comprise former combatants from both sides as well as common criminals.

70. The existence of these armed groups, irrespective of their motivation, constitutes an expression of organized violence which must be punished in accordance with the law.

71. Some organized gangs engaged in common crime act in the name of former paramilitary organizations or death squads. One such instance occurred in June, and involved the extortion of farmers by common criminals acting in the name of the self-styled "Maximiliano Hernández Martínez Commando".

72. ONUSAL has confirmed the presence of armed groups in the zone adjacent to the El Salvador volcano on the outskirts of the city of San Salvador. Various reports have been received regarding the presence in that zone of armed individuals who engage in criminal activities. The reports state that armed groups carry out acts of violence and terror against the owners and workers on the farms located in an area bordering the San Salvador volcano. These occurrences, according to reports, take place in particular on the San Francisco farm.

73. Verification by ONUSAL indicates that these events have indeed been taking place, and are perpetrated by armed groups whose members usually wear black uniforms bearing the letters "VUN" and carry military weapons (M-16s). Further information, which was corroborated during visits by ONUSAL observers, indicates that these armed groups comprise former FMLN combatants, who systematically harass owners and workers on the farms in the area.

74. In connection with this and other situations, FMLN, in a communiqué dated 15 June 1993, called for an investigation into the matter by the National Civil Police, with ONUSAL support, to identify these groups. The communiqué also stated that once ONUSAL completed final verification of the surrender of weapons, possession of such weapons would be the sole responsibility of the individuals concerned.

IV. ACTIVE VERIFICATION OF OTHER COMMITMENTS ESTABLISHED IN THE PEACE AGREEMENTS AND HAVING HUMAN RIGHTS AND INSTITUTIONAL SUPPORT COMPONENTS

A. Functioning of the judiciary and the administration of justice

1. Judicial reform

Reform of the criminal justice system

75. On 16 June 1993 the Legislative Assembly adopted Legislative Decree No. 573 with the aim of guaranteeing judicial impartiality and separating the various stages of proceedings so as to bring them under the jurisdiction of different courts. In this connection, one of the major reforms to the code of Criminal Procedure of El Salvador, is the replacement of article 19 by a new article,

which grants magistrates courts jurisdiction in the case of preliminary hearings in respect of offences subject to ordinary jurisdiction committed within their territorial jurisdiction, up to cessation of proceedings or referral for trial, as well as jurisdiction in the case of minor offences and proceedings referred to them by courts of first instance and other courts. It thus extends the sphere of competence of magistrates courts which will no longer be limited to functioning in the first phases of the preliminary hearings. At the same time, criminal courts of first instance will have jurisdiction in cases involving offences subject to ordinary jurisdiction. These reforms will come into force with effect from 7 September 1993.

2. Judicial reforms promoted by the Ministry of Justice

76. The substantive and sectoral reforms promoted by the Ministry of Justice are continuing through the participatory consultation stage, gathering the views of the legal community and the population. This process represents a praiseworthy effort to make judicial reform a consensual and democratic process so as to endow it with the legitimacy essential to the attainment of its objectives. In this connection the Ministry of Justice has proposed the text of the preliminary bill embodying the new Code of Criminal Procedure for national consultation.

3. The remedy of amparo

77. In its seventh report the Human Rights Division presented the conclusions of a study carried out with the aim of verifying the effectiveness or ineffectiveness of habeas corpus in Salvadorian judicial practice. The conclusions established that, in terms of its current substantive and procedural regulation, habeas corpus is extremely ineffective in protecting fundamental individual rights.

78. With a similar objective an assessment has been conducted to determine the effectiveness of the remedy of amparo in judicial practice. In terms of its comprehensiveness, amparo provides the most effective constitutional protection for human rights, since it applies to all rights. The results of the study sample indicate that the situation with this remedy is similar to that of habeas corpus, in that it confirmed the ineffectiveness of the remedy in its current legislative form. This means that the reform process must include a fundamental amendment to the legislation on amparo with the aim of ensuring its effectiveness and extending the scope of its protection.

79. The results of the above assessment suggest that the centralization of cases under the exclusive responsibility of the Constitutional Chamber of the Supreme Court of Justice and the very nature of the procedure make it excessively complex and reduce the swiftness which should be a feature of amparo.

80. A total of 57 determinations made by the Constitutional Chamber of the Supreme Court of Justice in the first half of 1992 were analysed. From the thrust of the judicial decisions concerning the amparo applications filed, it is clear that the number of decisions holding the remedy to be inapplicable

(54.38 per cent), ordering a cessation of proceedings (24.56 per cent), declaring the application inadmissible (10.52 per cent) and denying the request (7.01 per cent) far outnumber those in which the application was upheld (3.50 per cent). Based on this sample it is clear that the remedy is ineffective.

81. As to the rights invoked in the applications, most of the applications refer to the right to a hearing (21.05 per cent), the right to work (12.28 per cent), the right to ownership (12.28 per cent), the right to a defence (8.77 per cent), the right to possession (8.77 per cent) and the right to due process (1.75 per cent).

82. The Salvadorian juridical community has been developing various recommendations aimed at expediting the constitutional procedures relating to amparo actions, such as adopting the principle that applications can be filed orally and easing the current formal requirements for the filing of written complaints.

83. With regard to active legal standing, it has been recommended that the remedy of amparo be granted to anyone having a legitimate interest in protecting the right affected by the administrative act, and that recognition be given to the public right of action exercisable by State agencies or private bodies for the protection of collective or broad interests (associations, trade unions, chambers of commerce, non-governmental organizations, environmental organizations, etc.).

84. It would also be desirable for the Public Prosecutor's Office and the Office of the National Counsel for the Defence of Human Rights to exercise their power to file amparo applications. It is suggested that suspension of the act giving rise to the application would be appropriate, even if no harm has occurred, since the function of amparo is essentially preventive. With regard to the exhaustion of ordinary or administrative remedies, it is also suggested that, in order to avoid deliberate procrastination, it should not be necessary to have exhausted all administrative remedies before applying for the remedy of amparo.

85. With regard to the human rights protected by the remedy of amparo, it is suggested that amparo should cover rights which have not been embodied in secondary legislation, which are part of international treaties that should form part of the domestic legal system.

86. Furthermore, the remedy should be extended to cover acts of individuals, and should be applicable against jurisdictional acts where guarantees of due process of law have been violated during a proceeding. It should not be sought in order to resolve purely civil, labour or related matters, and should be recognized as an inalienable constitutional guarantee which, therefore, cannot be suspended during states of emergency.

B. The Office of the National Counsel for the Defence of Human Rights

87. The Office of the National Counsel for the Defence of Human Rights has been increasingly vigorous in carrying out its constitutional functions with regard to the protection and promotion of human rights.

88. During the period covered by this report, the National Counsel's Office, pursuant to its work plans and the recommendations of the Commission on the Truth, began opening departmental branches. Of a total of seven branches which were to be established in 1993, two have opened, in San Vicente and Santa Ana. The San Miguel departmental branch will open in August. The others will be established during 1993, in accordance with the timetable submitted to the Secretary-General of the United Nations by the National Counsel for the Defence of Human Rights.

89. With regard to the protection and defence of human rights, the National Counsel's Office has developed a project for monitoring and investigating human rights violations, geared to the establishment of an information and management system designed to improve its efficiency in protecting human rights; the project would be internationally funded, and its execution would require broad participation by non-governmental organizations.

90. The Office of the National Counsel for the Defence of Human Rights in El Salvador was institutionally established by the peace agreements as a quasi-jurisdictional body for the monitoring of respect for human rights. In the future, once the international verification process in El Salvador has been completed, the National Counsel's Office will assume sole responsibility for such monitoring. Accordingly, strengthening this institution is of decisive importance for the establishment of a State governed by the rule of law and the fulfilment of the duty of citizens to exercise their rights in a lawful manner, as well as for the State's parallel obligation to safeguard those rights and to punish those responsible for any violation.

91. Such strengthening will have been achieved when the National Counsel's Office is materially and functionally able to systematically exercise all the powers granted to it by the Constitution and the Act organizing it, especially those relating to: the promotion of judicial or administrative remedies for the protection of human rights; the practice of making inspections where it so deems necessary for the protection of human rights; the supervision by the State of persons deprived of their liberty; the proposal to the organs of State of reforms aimed at the advancement of human rights; the drafting of views concerning bills which affect the exercise of human rights; the promotion of the signing and ratification of or accession to international human rights treaties; and, as a priority, the investigation, on its own initiative or upon receipt of a complaint, of cases involving human rights violations.

92. At the same time, the institutional and functional development of the National Counsel's Office in respect of the systematic exercise of its powers requires the gradual involvement of non-governmental human rights organizations as dynamic and active participants in all its activities.

93. It is also essential for the organs of State to fulfil the obligations arising from the constitutional powers of the National Counsel's Office. These include: notifying the public prosecutor of all arrests; respecting the legal limits of administrative detention; dealing promptly, and in accordance with the norms of due process of law, with the judicial or administrative remedies that the public prosecutor's office may seek; taking the views of the National Counsel's Office into account in the drafting and adoption of legislation affecting human rights; agreeing to the reforms which the Office may propose to the organs of State; and implementing its recommendations. The latter obligation is especially important inasmuch as some State institutions continue stubbornly to resist the recommendations of the National Counsel's Office.

94. On 29 July 1993, the ONUSAL Human Rights Division signed a cooperation agreement with the Office, with a view to contributing to the strengthening of that institution. The agreement establishes the commitment of ONUSAL to transfer its functions to the Office upon completion of its mandate, and provides for cooperation in the following areas: monitoring and verification of human rights violations; techniques for investigating human rights violations; data-processing methodologies and media; establishment of a human rights information and documentation centre; institutional strengthening of the National Counsel's Office; support for the development, negotiation and execution of internationally-funded projects, and strengthening of the Office's external management.

C. Human rights components of the reform of the armed forces and the security forces

95. The peace agreements established substantive commitments with regard to the operational structure of the armed forces. The consent of the parties determined the assumption of obligations relating to the doctrinal principles of the armed forces, their educational system, a reduction in their personnel, a purification process and aspects relating to their organization. These obligations, despite the emergence of difficulties which even led to modification of the time-limits initially agreed on, have been fulfilled in a manner consonant with the provisions of the agreements.

96. Consistent with this process, the Government, in issuing the general orders corresponding to 30 June 1990, implemented the recommendations of the ad hoc Commission by retiring those general officers whose discharge the Commission had recommended in its report, yet who were still in active service. With this measure, the agreements relating to the armed forces have essentially been implemented. Some of these agreements, as noted in previous reports, have human rights components, the implementation of which is, by its very nature, a continuing process.

97. The reforms which have been adopted with regard to the armed forces are of decisive importance for El Salvador's legal system and its political life in general. A State governed by the rule of law - which is what the agreements seek to establish - implies, by definition, one with a political system in which the armed forces must be strictly limited to their very important constitutional functions and rigorously subordinated to civilian authority.

98. The institutional functions of the armed forces, as defined in the peace agreements and the constitutional reform, do not imply the diminishment of the military as an institution; on the contrary, the value of the military is enhanced in the context of a State governed by the rule of law and democratic life, in which the armed forces are required to be efficient and to have adequate capacity and resources for the fulfilment of their constitutional duties.

99. The agreements anticipated that the readjustment of the role of the armed forces in society and in the Salvadorian political system would mean a substantive change in the military doctrine, so as to adapt it to the new conditions of a situation of peace and the full operation of democratic life.

1. Formulation of a new military doctrine and restructuring of education in military training

100. In accordance with articles 211, 212, 213 and 168 of the Constitution of the Republic of El Salvador, the armed forces belong to the executive branch and are under the authority of the President of the Republic as Commander-in-Chief. Their specific mission is to defend the sovereignty of the State and the integrity of its territory; they may be used for the maintenance of internal peace only by express order of the President of the Republic and in accordance with the provisions of the Constitution.

101. With the publication of the broad outlines of the new military doctrine, the obligation which the Government of El Salvador assumed in that regard has been fulfilled. That fact should be assessed in the broader context of the fulfilment of other commitments which, together with the express formulation of the new doctrine, constitute a comprehensive and democratic reform of the armed forces. The agreements which have already been implemented, include the reduction of 50.2 per cent in the personnel of the armed forces, the disbandment of the rapid deployment infantry battalions, the security forces and the paramilitary forces and the purification, all deriving from the conclusions of the ad hoc Commission. This leaves the recommendations of the Commission on the Truth relating to the armed forces to be implemented, and consultations are currently under way on this subject.

102. These changes pertain to the legislative and institutional sphere. In order for them to have legitimacy in the social sphere, the military and its individual members must adapt their conduct fully to the Constitution, the law and the spirit of the new doctrine. The capacity of the institution itself, the State and the judiciary to investigate and punish, in accordance with the law, acts which run counter to the constitutional function of the military or which violate the norms of a State governed by the rule of law, will also contribute to that effort. It is essential for some military authorities to refrain from assuming powers and competencies which are not conferred on them by law, such as those involving political investigation, detention and interference with the functioning of the organs of State.

2. Formation and functioning of the National Civil Police

103. The deployment of the National Civil Police (PNC) is continuing gradually, even though serious problems of financial and material resources, without which PNC may find it increasingly difficult to carry out its functions, have yet to be fully resolved.

104. In the context of the public security problems deriving from the increase in criminal acts, the constitutional, technical, ideal and most effective way to control and punish crime legally is to accelerate the formation and overall deployment of PNC, while providing it with the resources it requires to perform its tasks. PNC has legitimacy and sufficient support among the population to inspire confidence in its ability to handle public security problems.

105. The initial results of the efforts of PNC confirm, moreover - despite sometimes dramatic material deficiencies - that it can efficiently tackle the fight against crime. From that standpoint, and with a view to collaborating in the formation of PNC, the ONUSAL Human Rights Division and the National Public Security Academy signed a cooperation agreement which has already begun to be implemented.

D. Information and education campaign on human rights

106. Previous reports have underscored the importance which the Human Rights Division attaches to an information and education campaign on human rights in order to achieve a genuinely democratic and developed State.

107. Human rights education should not be limited to knowledge of human rights legislation or doctrine. Over and above that undoubtedly important activity, human rights education should seek and should achieve changes in conduct - habits which can be instilled only if the theoretical content is accompanied by a type of education which is, in itself, respectful of human rights, in other words, a citizens' education encompassing the largest possible number of social activities.

108. From that standpoint, the Human Rights Division has launched an information and education campaign, to include television and radio broadcasts and pamphlet distribution during July and August 1993.

109. The campaign was designed, prepared and produced with a systematically participatory methodology, in consultation with various civilian sectors, the State and, especially, non-governmental organizations. That made it possible to define, on the basis of consensus, the themes on which the campaign focuses, namely, arbitrary detentions for petty misdemeanours (faltas de policía); the relationship between the citizenry and the security forces; citizens' duties with regard to human rights; the protective role of non-governmental organizations; habeas corpus; the Office of the National Counsel for the Defence of Human Rights; the National Civil Police; and equality of rights between women and men.

110. At the same time, the Human Rights Division is systematically continuing to hold events with the participation of judges, the juridical community, the

police and the Office of the National Counsel for the Defence of Human Rights. In the field of formal education, 30,000 copies of the publication Normas nacionales e internacionales sobre derechos humanos have been delivered to the Ministry of Education for use by high-school teachers and students. Moreover, the Presidential Commissioner for Human Rights has informed ONUSAL of the activities which his office is carrying out in the field of human rights education.

V. ASSESSMENT OF THE RECOMMENDATIONS BY THE HUMAN RIGHTS DIVISION

111. In its seventh report, the Human Rights Division gave an account of the establishment of a mechanism for consultations between the Government of El Salvador and ONUSAL for the proper implementation of recommendations by the Human Rights Division. At the same time, a list was made of the recommendations which the Government of El Salvador is responsible for implementing in accordance with provisions of the San José agreement.

112. In this connection, a concise assessment is given of the implementation process relating to the aforementioned recommendations:

1. Ratification of or accession to international instruments, including the Conventions of the International Labour Organisation mentioned in the sixth report.

Implementation:

The Government has expressed its willingness to ratify or accede very shortly, to the human rights conventions save for the one concerning recognition of the compulsory jurisdiction of the Inter-American Court of Human Rights. The Government has stated that the ILO Conventions will be dealt with within the framework of consultations held in the Forum for Economic and Social Consultation.

2. Structural and functional reform of the judiciary.

Implementation:

The implementation of this recommendation entails necessary constitutional reforms. However, normative reforms are being carried out towards this end. Those reforms which are particularly relevant are the substantive and sectoral reforms promoted by the Ministry of Justice. Some of these reforms, such as elimination of the automatic reviews and amendments already adopted with respect to the public defender, have already been adopted by the Legislative Assembly. Other amendments to the institution of habeas corpus and the draft new code of criminal procedure are being discussed with the legal community.

There are plans to adopt a new penal code and a code of penal procedure, as well as specific legislation to abolish extrajudicial confession, eliminate the presumption of guilt, shorten administrative detention, transfer petty misdemeanours from police jurisdiction to the magistrate's courts, introduce new

regulations covering investigations and searches and amend the code of military justice.

3. Establishment of a special commission of inquiry to investigate arbitrary and extralegal executions.

Implementation:

The Government has stated that it is prepared to give priority to the investigation of cases brought to its attention by ONUSAL, as well as by non-governmental organizations, as possible summary or arbitrary executions. At the same time it has stated that it would not be possible to establish a special commission, since the structure of the country's institutions does not allow for such investigative bodies. Accordingly, it has been agreed that the main purpose of the recommendation, which is to ensure that investigations are independent, prompt and efficient as a means of avoiding impunity, will be borne in mind.

The efficiency of a mechanism whereby the Criminal Investigation Commission undertakes - independently of any proceedings which the relevant organs may be required to institute - to investigate cases of violent or presumed politically motivated deaths brought to the Government's attention by the Human Rights Division, is being explored. Under this mechanism ONUSAL is to put before the Criminal Investigation Commission and the National Police, via the Minister for the Presidency and the Ministry of Justice, priority cases of deaths requiring prompt, independent and efficient investigation. An account of these is to be found in the supplement to this report. The initial experience with this procedure indicates that specific criteria - both technical and with respect to duration - must be established for investigations by the Criminal Investigation Commission, so that the investigations may fulfil the requirements of promptness, independence and efficiency, it being understood that, if they do not, it would mean the recommendation was not being implemented.

4. Amendment to the legislation governing remedies of habeas corpus and amparo to make them effective.

Implementation:

The Government has submitted to national debate a draft bill which amends the legislation regarding habeas corpus. In general terms said draft is a positive step, although there may be further amendments to enhance its effectiveness. The Human Rights Division will present to the Ministry of Justice an analysis of the above-mentioned draft with specific proposals. Nevertheless, as has been stated in previous reports, and specifically in the recommendation on the subject, in order properly to guarantee the remedy of habeas corpus, constitutional reforms are needed in order to ensure that applicants have full access to the courts; at present this is limited to the Constitutional Chamber of the Supreme Court.

No initiative has yet been taken with respect to the remedy of amparo; the recommendation consequently has yet to be implemented.

5. Establishment of a compensation fund for victims of human rights violations.

Implementation:

Preliminary steps have been taken to implement this recommendation; they include an examination of different modalities for the establishment of the fund, such as criteria for determining the number of potential beneficiaries and the identification of the necessary financial resources. The Human Rights Commission of El Salvador (CDHES) has drawn up a plan for the creation of a special national reparation and reconciliation fund and has submitted the text of the draft bill to the Legislative Assembly. The CDHES plan contains many constructive and suitable elements which should be taken into account; the Human Rights Division considers that implementation of this recommendation is a matter of urgency that can no longer be postponed.

6. Improvement of the composition and powers of the National Council of the Judiciary and independence of the Judicial Training School.

Implementation:

This recommendation entails amending the Act on the National Council of the Judiciary and also the Constitution. Nothing has been done as yet to implement it.

7. Elimination of extrajudicial confession.

Implementation:

With the new Public Defenders Act and the amendments to the Code of Criminal Procedure and to the Act organizing the Public Prosecutor's Office, regulating the right of the accused to legal defence, the practice of extrajudicial confession has decreased. Nevertheless, the Ministry of Justice has submitted a preliminary bill specifically prohibiting extrajudicial confessions, and designed also to safeguard the constitutional provision which provides that statements obtained against the will of the individual shall be invalid and that anyone who obtains and uses such statements shall be held criminally liable.

The purpose of this text is to protect the right of the accused not to be forced to incriminate himself or herself, and to disallow the use of extrajudicial confession as evidence.

Once this bill is adopted, after it has been discussed with the legal community and submitted to the Legislative Assembly, this recommendation will have been implemented. There will, however, remain one additional task, namely, monitoring the effective implementation of the laws by the police and judges.

8. Definition of torture and enforced disappearance as offences in special criminal legislation.

Implementation:

The preliminary bill of a new Penal Code submitted by the Minister of Justice defines torture as an offence against the fundamental right to security and integrity of person. It likewise defines enforced disappearance as an offence, stating that any official who legally or illegally detains an individual without indicating the latter's whereabouts shall be liable to imprisonment from four to eight years, a fine for a period of 180 to 250 days at the prescribed rate and general disqualification for a period of six to ten years, providing that the offence is not one punishable by a heavier penalty. The bill defines the offences of enforced disappearance proper, enforced disappearance carried out by individuals following orders and enforced disappearance entailing culpable responsibility for allowing or agreeing to the commission of the offence.

Implementation of the recommendation began with the initiative of the Ministry of Justice; implementation will be completed once the relevant corresponding legislation has been adopted.

9. Legislation regulating the conduct of law enforcement officials in terms of ensuring respect for human rights.

Implementation:

The Ministry of Justice has drafted a preliminary bill concerning regulations for administrative detention aimed at averting excess and abuse in the use of force during detention by adopting the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly of the United Nations, as part of domestic legislation.

The passing of this preliminary bill will mean that the corresponding recommendation is being implemented; other partial reforms, such as those referred to in the regulation covering investigations and searches, will also contribute to this objective. Once the corresponding legislation has been passed after consultation with the legal community and the citizenry, it will be indispensable to set up machinery for cooperation and evaluation of its implementation with the Civil Police, the National Police and the Anti-Drug-Trafficking Unit.

10. Abolition of the practice of arbitrary detention for petty misdemeanours.

Implementation:

ONUSAL has been encouraging implementation of this recommendation in coordination with the National Police, the National Civil Police, the Supreme Court and the municipalities. Towards this end, certain verification procedures have been worked out and a set of instructions have been issued to the police force to decrease the number of such arbitrary detentions while legislative reforms are being adopted.

Assessment of the implementation of the instructions indicates that implementation is not yet satisfactory. A programme to encourage proper

implementation has been developed in cooperation with the courts. Similar action is to be taken with the municipalities. Arbitrary detention for petty misdemeanours is the main cause of the violation of the right to liberty in this country. By dealing with the problems and shortcomings identified in the execution of the instructions it will be possible to move towards reducing the high incidence of arbitrary detention. However implementation of the recommendation requires, as a matter of urgency, the repeal of the Police Act of 1896 and adoption of the preliminary bills on regulations governing detention by the police authorities and transfer of petty misdemeanours from police jurisdiction to the magistrate's courts.

11. Temporary application of the Act governing the procedure for administrative detention or the imposition of administrative fines.

Implementation:

This recommendation is linked to the previous one as a temporary means of lowering the high incidence of arbitrary detentions for petty misdemeanours. The police instructions regarding misdemeanours were designed with a view to applying the Act governing the procedure for administrative detention or the imposition of administrative fines (Legislative Decree No. 457) instead of resorting to obsolete provisions of the Police Act of 1886 or illegal proceedings. Although marked progress has been made, the Act is not being adequately implemented as yet. A programme for the National Civil Police, the National Police, the Municipal Police, and the Anti-Drug-Trafficking Unit must be set up as a matter of urgency in order to establish that, during the transition period prior to repeal of the Police Act of 1886 and the transfer of petty misdemeanour cases from police jurisdiction to the magistrate's courts, the provisions of Legislative Decree No. 457 must be applied in cases of administrative arrest.

12. Amendment to the disciplinary regime under the Career Judicial Service Act so that the Supreme Court of Justice or its President can investigate formally any irregularities or violations of due process.

Implementation:

ONUSAL has been holding consultations with the Supreme Court of Justice on the implementation of this recommendation which is essential in assuring the effectiveness of the guarantees of due legal process, especially vis-à-vis the right to legal counsel, the right to be tried by a competent tribunal within a reasonable period of time and the right to a fair trial.

13. Legal recognition of associations and trade unions.

Implementation:

Although some progress has been achieved under the consultation mechanism, this recommendation has yet to be implemented.

14. Visit by the ILO Committee on Freedom of Association.

Implementation:

The Committee will undertake the proposed visit to El Salvador pursuant to the recommendation.

15. Inclusion of a human rights component as a substantive and permanent feature of military training.

Implementation:

This recommendation, which is already being implemented must, by its very nature, be a continuing process. In this regard, the Human Rights Division will submit a specific cooperation programme to the Armed Forces.

16. Recovery of weapons which are intended exclusively for Armed Forces personnel but which are in the possession of individuals and tighter monitoring of the use of arms by military officers in active service.

Implementation:

Notwithstanding the steps taken, this recommendation has yet to be implemented because of the ineffectiveness of the measures; as a result, a situation which is propitious to human rights violations still persists. Legislation must be drafted to define the legal framework for the possession of weapons and empower the competent authorities to collect weapons in the possession of the civilian population.

17. Budget autonomy for the Office of the National Counsel for the Defence of Human Rights.

Implementation:

This recommendation should be implemented in accordance with the general rules governing the auditing of State accounts. However, consultations between the Government and the Office with regard to its implementation have not yet begun.

18. Lifting of any restrictions on NGO activities and support for their work programmes.

Implementation:

The legal status of some non-governmental organizations is still undetermined.

VI. CONCLUSIONS

1. During the three months under review, there have been definite improvements as well as serious violations in the human rights situation; this is evidenced by the persistence of the alarming trends with respect to the right to life, the confirmation of one case of torture that must not go unpunished and by the fact that once again no disappearances have occurred, the latter being the most

tangible proof of progress. The perpetrators of human rights violations, especially the right to life, still go unpunished in a substantial number of cases. This is all the more serious when those involved are members of the armed forces, the police or State organs. This situation casts doubts on the State's ability to guarantee respect for human rights.

2. Politically motivated human rights violations have been more open and are rendered more serious because of the electoral context the country has entered.

3. At the same time, common violence and an unfavourable climate for the protection of human rights have created a complex and precarious situation characterized by the presence of a hodgepodge of armed groups and gangs that must be investigated and punished according to the law.

4. In this regard, the various State bodies and civilian society will have to reaffirm the consensus, conciliation and spirit of reconciliation not only as a substantive goal of the peace but also as daily components of political life and social intercourse.

5. The generally positive trends that the peace has brought about in the area of human rights are not yet - they could not be - irreversible. Such trends can endure only if the institutions established as a result of the peace function effectively, if State institutions observe the law scrupulously, if the judiciary has the authority and autonomy to carry out investigations and mete out appropriate punishment, if the Office of the National Counsel for the Defence of Human Rights is strengthened and its constitutional functions respected by State agencies and if civilian society is strengthened; non-governmental organizations must play a key role in the latter process.

COMPLAINTS DECLARED ADMISSIBLE BY ONUSAL

May-July 1993

Table No. 1

Complaints declared admissible	May	June	July	Total
VIOLATIONS OF THE RIGHT TO LIFE				
Arbitrary executions	10	17	16	43
Attempted arbitrary executions	3	1	5	9
Death threats	6	9	27	42
VIOLATIONS OF THE RIGHT TO INTEGRITY OF PERSON				
Torture	1	1	0	2
Ill-treatment	10	17	19	46
Excessive use of force	2	2	9	13
VIOLATIONS OF THE RIGHT TO SECURITY OF PERSON				
Enforced disappearances	0	0	0	0
Abductions	1	0	4	5
Other threats	15	13	16	44
VIOLATIONS OF DUE PROCESS OF LAW PROCEDURAL GUARANTEES				
Right to be tried by a competent tribunal within a reasonable period of time	3	2	6	11
Right to defence	3	1	2	6
Right not to be coerced	0	2	2	4
Right to multiple jurisdictional instances	0	0	0	0
RIGHT TO JUSTICE				
Legal obligation of the State to investigate and punish	27	30	23	80
Right to compensation	1	1	1	3
VIOLATIONS OF THE RIGHT TO PERSONAL FREEDOM				
Arbitrary detentions	26	24	21	71
Arbitrary detentions for petty misdemeanours	5	9	11	25
Procedural guarantees	3	13	2	18
VIOLATIONS OF THE RIGHT TO FREEDOM OF EXPRESSION	0	1	0	1
VIOLATIONS OF THE RIGHT TO FREEDOM OF ASSOCIATION				
Right to associate freely	2	1	2	5
Freedom of assembly	0	0	0	0
Trade union freedom	3	1	0	4
VIOLATIONS OF THE RIGHT TO IDENTITY DOCUMENTS				
To obtain personal identification documents	0	0	0	0
To obtain civil status documents	0	0	0	0
TOTAL	121	145	166	432

COMPLAINTS DECLARED ADMISSIBLE BY CATEGORY OF RIGHT VIOLATED

May-July 1993 (percentages)

Table No. 2

Violation	May	June	July	Total
Life	16	18.6	28.9	21.1
Integrity	10	13.8	16.8	13.8
Security	12.6	8.9	12.1	11.4
Due process	28.6	24.9	20.5	24.5
Personal freedom	28.6	31.7	20.5	26.8
Freedom of expression	0	0.7	0	0.2
Freedom of association	4.2	1.4	1.2	2.2
Personal documentation	0	0	0	0
TOTAL	100	100	100	100

REGIONAL STRUCTURE OF COMPLAINTS BY CATEGORY OF RIGHT VIOLATED

May-July 1993 (percentages)

Table No. 3

	SS	SA	SV	SM	C	U	TOTAL
Right to life	54.70	19.00	4.70	8.70	2.40	10.50	100.00
Right to integrity	27.40	34.70	8.00	12.30	5.30	12.30	100.00
Right to security	42.27	16.17	12.80	20.40	1.67	6.67	100.00
Due process	20.40	12.40	17.35	24.90	11.54	13.38	100.00
Personal freedom	35.80	24.86	3.90	21.03	3.64	10.75	100.00
Freedom of expression	0.00	0.00	0.00	0.00	100.00	0.00	100.00
Freedom of association	46.67	23.33	0.00	6.67	23.33	0.00	100.00
Personal documentation	0.00	0.00	0.00	0.00	0.00	0.00	100.00

SS San Salvador Regional Office

SA Santa Ana Regional Office

SV San Vincente Regional Office

SM San Miguel Regional Office

C Chalatenango Subregional Office

U Usulutan Subregional Office

PERSONS PRESUMED RESPONSIBLE FOR VIOLATIONS

May-July 1993 (percentages)

Table No. 4

Persons presumed responsible	May	June	July	Total
National police	40.3	38.7	40.3	39.8
Irregular groups (death squads, etc.)	8.4	3.5	6	5.9
Persons unknown	11	13.8	13.9	12.9
Municipal police	3.3	3.5	1.8	2.9
National civil police	0	2	4.9	2.3
Members of armed forces	4.2	2	5.4	3.9
Public prosecutor's office	0	0	1.2	0.4
Administration	0	2	1.2	1
Judiciary	25.2	23.45	16.9	21.8
Anti-drug-trafficking unit	0	3.5	0.6	1.4
Criminal investigation commission	1	0	0	0.3
FMLN	3.3	3.5	1.2	2.7
Other	3.3	4.1	6.6	4.7
TOTAL	100	100	100	100

PERSONS PRESUMED RESPONSIBLE BY CATEGORY OF RIGHT VIOLATED

May-July 1993 (percentages)

Table No. 5

	LIFE			INTEGRITY		
Persons presumed responsible	May	June	July	May	June	July
Members of national police	0	11.1	16.7	83.3	70	82.1
Irregular groups (death squads, etc.)	52.6	14.8	16.7	0	0	0
Persons unknown	21	51.9	31.3	0	0	0
Municipal police	0	0	0	16.7	10	3.6
National civil police	0	0	2	0	5	10.7
Armed forces	5.2	7.4	8.4	0	0	3.6
Public prosecutor's office	0	0	0	0	0	0
Administration	0	0	0	0	0	0
Judiciary	0	3.7	0	0	0	0
Anti-drug-trafficking unit	0	0	2	0	5	0
Criminal investigation commission	0	0	0	0	0	0
FMLN	16	7.4	4.2	0	0	0
Other	5.2	3.7	18.7	0	10	0
TOTAL	100	100	100	100	100	100

Table No. 5 (continued)

Persons presumed responsible	SECURITY			DUE PROCESS		
	May	June	July	May	June	July
Members of national police	0	0	0	0	0	0
Irregular groups (death squads, etc.)	6.7	23	0	0	0	0
Persons unknown	13.3	0	10	3	0	2.9
Municipal police	0	7.7	10	0	0	0
National civil police	0	0	5	0	0	2.9
Armed forces	60	38.5	40	0	0	0
Public prosecutor's office	0	0	5	0	2.8	0
Administration	0	0	0	73.5	83.4	67.7
Judiciary	0	7.7	0	0	0	5.9
Anti-drug-trafficking unit	0	0	0	0	0	5.9
Criminal investigation commission	6.7	0	0	0	0	0
FMLN	13.3	15.4	30	23.5	13.8	14.7
Other	0	7.7	0	0	0	0
TOTAL	100	100	100	100	100	100

Table No. 5 (continued)

Persons presumed responsible	PERSONAL FREEDOM			FREEDOM OF EXPRESSION		
	May	June	July	May	June	July
Members of national police	3	0	0	0	0	0
Irregular groups (death squads, etc.)	0	0	0	0	0	0
Persons unknown	0	2.2	0	0	0	0
Municipal police	0	0	0	0	0	0
National civil police	0	0	0	0	0	0
Armed forces	0	0	0	0	100	0
Public prosecutor's office	0	2.2	0	0	0	0
Administration	12	6.5	14.7	0	0	0
Judiciary	0	2.2	0	0	0	0
Anti-drug-trafficking unit	0	4.4	5.9	0	0	0
Criminal investigation commission	3	6.5	5.9	0	0	0
FMLN	82	69.5	73.5	0	0	0
Other	0	6.5	0	0	0	0
TOTAL	100	100	100	0	100	0

Table No. 5 (continued)

Persons presumed responsible	FREEDOM OF ASSOCIATION			DOCUMENTATION		
	May	June	July	May	June	July
Members of national police	0	0	0	0	0	0
Irregular groups (death squads, etc.)	0	0	0	0	0	0
Persons unknown	20	0	50	0	0	0
Municipal police	0	0	0	0	0	0
National civil police	0	0	0	0	0	0
Armed forces	0	0	0	0	0	0
Public prosecutor's office	0	50	50	0	0	0
Administration	0	0	0	0	0	0
Judiciary	80	50	0	0	0	0
Anti-drug-trafficking unit	0	0	0	0	0	0
Criminal investigation commission	0	0	0	0	0	0
FMLN	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	100	100	100	0	0	0

VIOLENT CRIMINAL OFFENCES

May-July 1993

(Information provided by ONUSAL Police Division)

Table No. 1

	May	June	July	Total	%
HOMICIDES	94	123	138	355	100
Firearms	60	92	101	253	71.21
Knives	22	27	27	76	21.41
Grenades	6	1	4	11	3.1
Torture	1	0	0	1	0.28
Other	5	3	6	14	3.94
SERIOUS INJURIES	91	132	123	346	100
Firearms	28	41	30	99	28.6
Knives	39	39	39	117	33.9
Grenades	2	7	5	14	4.05
Torture	2	2	0	4	1.16
Other	20	43	49	112	32.3
ASSAULT	56	160	106	322	100
and homicide	10	18	16	44	13.66
and battery	3	20	13	36	11.18
ABDUCTIONS	17	2	2	21	100
THREATS	49	67	65	181	100
TOTAL CRIMINAL OFFENCES	307	484	434	1 225	100

POSSESSION OF WEAPONS

May-July 1993

(Information provided by ONUSAL Police Division)

Table No. 2

	May	June	July	Total
POSSESSION	52	106	123	281
Firearms	35	67	91	193
Knives	12	18	9	39
Explosives	5	21	23	49